THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.27063 of 1997

Dated 21-02-2007

T A S Narayana,
Visakhapatnam District

…Petitioner

And

The Commissioner,
Gajuwaka Municipality, Visakhapatnam District and another.

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.27063 of 1997

ORDER:

The petitioner challenges the notice dated 18-07-1997, issued by the 1st respondent. Petitioner is the owner of a plot admeasuring 383 sq.yards, in Sy.No.42 of Gajuwaka Revenue village (Old patta No.72). After purchasing the same in the year 1974, he submitted an application to the 1st respondent for according permission to construct. Permission was accorded on 30-12-1995. The construction was commenced, but it could not be completed within one year. Thereafter, the 1st respondent issued impugned notice, stating *inter alia* that the plot, for which the permission was granted, had vested in the Government, and that the construction permission was obtained by the petitioner unlawfully. He required the petitioner to stop the construction forthwith. Petitioner contends that the impugned notice is contrary to the provisions of the A.P. Municipalities Act (for short '*the Act*'), and cannot be sustained in law.

The 1st respondent filed a counter-affidavit. It is stated that the impugned notice was issued mainly on the ground that the petitioner failed to complete the construction within the stipulated period and by invoking his power under Section 216 of the Act. The 2nd respondent also filed a counter affidavit, stating that he has no concern with the dispute.

Heard the learned counsel for the petitioner and learned

counsel for the respondents.

On an application filed by the petitioner, the 1st respondent accorded permission. The construction was to have been completed within one year. The impugned notice does not make any reference to the failure on the part of the petitioner,

to complete the construction within the stipulated time. On the other hand, it refers to the ownership dispute. The facts stated in the counter affidavit are totally at variance, with those, stated in the impugned order.

Once it had accorded permission to the petitioner, the

1st respondent does not have the power, to annul it, on the ground that there is a title dispute. It is for the person, claiming title in the land, to institute necessary proceedings, and not for the

1st respondent to defeat the very purpose, for which it had accorded permission. The impugned notice cannot be sustained in law.

The writ petition is accordingly allowed, and the impugned notice is set aside. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.21-02-2007.

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